

A RESOLUTION BY

THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

02-*R*-0472

A RESOLUTION TAKING FINAL ACTION ON THE LICENSE REVIEW BOARD'S RECOMMENDATION OF DENIAL OF THE REQUEST FOR REFUND OF THE 2001 ALCOHOL LICENSE FEE SUBMITTED BY HALL ENTERPRISES, INC. FOR THE PREMISES LOCATED AT 3211 MARTIN LUTHER KING DRIVE, SW.

WHEREAS, Mr. Ricky Hall is the licensee for Hall Enterprises, Inc., d/b/a/ Ballers Club, located at 3211 Martin Luther King Drive, S.W.; and

WHEREAS, Mr. Hall paid the sum of \$5,000 for the 2001 license and later submitted a request a refund to the License and Permits of the Atlanta Police Department; and

WHEREAS, the License Review Board of the City of Atlanta recommended denial of the request for refund finding that the licensee did not meet any of the required criteria of Section 10-60(d); and

WHEREAS, Code Sec. 10-60(d) of the City Code of Atlanta states that final action on the refund request is taken by the City Council "who shall by resolution approve or deny such refund" the License Review Board's recommendation of denial has been prepared and submitted to the Public Safety Committee in the form of the instant resolution; and

WHEREAS, the documents reviewed by the License Review Board and the transcript of the October 16, 2001 hearing is attached to this resolution for review by the Council.

NOW THEREFORE BE IT RESOLVED BY THE ATLANTA CITY COUNCIL:

Section One: The Council hereby approves the action of the License Review Board in its recommendation of denial and no refund is to be issued;

Section Two: In the event that the Council does not approve the action of License Review Board, the Chief Financial Officer is directed to issue a refund in amount which is to be determined per the calculations of Code Sec. 10-60(d) of the City Code of Atlanta.

LRB HEARING COVER SHEET

1 INVESTIGATIVE SUMMARY

LICENSEE: Hall Enterprises, Inc.

TRADE NAME: Ballers Club

LOCATION: 3211 M. L. King Dr. SW

AGENT: Ricky Hall

START SUMMARY HERE:

REQUEST FOR REFUND

This is a request for a refund of the annual alcohol license fee of \$5,000, by Mr. Ricky Hall.

Mr. Hall acquired an alcohol license from the city of Atlanta on March 6, 2000. He renewed his license on March 6, 2001 (late).

On May 17, 2001, Mr. Hall wrote a letter requesting a refund of his 2001 alcohol license fee due to the owner of the property refusing to renew his lease.

Mr. Hall was advised that according to Atlanta City Ordinance 10-60(d), which states, in part, "A licensee may be entitled to a refund of the licensee fee paid to the city if the licensed business cannot continue to be operated due to (i) destruction by fire or an act of God, (ii) death of the licensee, or (iii) any action taken by a government entity beyond the licensee's control.... The application shall be reviewed by the license review board within 30 days of its receipt, and the license review board shall make a recommendation to the city council who shall, by resolution, approve or deny such refund....", he did not qualify for a refund. Mr. Hall requested the License Review Board to review his request.


SUPERVISOR


J. B. Durant
INVESTIGATOR

DATE OF RECOMMENDATION

"IN THE INTEREST OF CIVIL LIABILITY, NO APPLICATION WILL LEAVE THE POSSESSION OF THE APD PERMITS UNIT"

ATLANTA POLICE DEPARTMENT
LICENSE & PERMITS UNIT
REFUND REQUEST FORM

DATE: 8-22-01

PERSON REQUESTING REFUND Ricky Hall

NAME OF BUSINESS Ballers Club

ADDRESS OF BUSINESS 3211 M.L.K. JR. DR.

BUSINESS LICENSE NUMBER 081316L G-B

ALCOHOL LICENSE NUMBER 081316A20
(IF APPLICABLE)

JUSTIFICATION OF REFUND was not able to retain
building, due to the fact that the in-
surance company did not pay off like
they said they would.

AMOUNT TO BE REFUNDED 5000.00

Ricky Hall
SIGNATURE

8-22-01
DATE

To Whom it May Concern:

My name is Ricky Hall, and I leased The Ballers Club located at 3211 MLK Jr. Drive from 12-1-99 thru 12-17-00. The reason that I am no longer in business is because the club has been burglarized several times since October 23, 2000. The equipment, sound system and alcohol were all stolen. In addition to that, the club was heavily vandalized..

However, after the first break-in all repairs were made to the club and new equipment and alcohol was purchased. The very next week after the club was repaired, new equipment and alcohol purchases were made, the club was again burglarized. My cash was totally exhausted from this and I could not afford to pay the rent on the club.

I waited on the insurance company to pay off so that I could re-invest the monies in trying to obtain the club back, but the insurance company never paid. The insurance company stated that they believe the employees were the ones who burglarized and vandalized the club and they will not cover the damages. I told them to lock up the guilty parties. They indicated to me that they did not have any proof, so I insisted that they pay me. They still refused to pay ~~any~~ thing to this day. The owner have already leased the club to someone else, leaving me with no other choice, but to request the return of my liquor license fee. The owner's name and number is as follows:

L.C. Crowe - (404) 557-8128.

Thank you for you help in this matter.

Ricky Hall *Ricky Hall* Signature
Date: 5-17-01

REFUND

Application for a refund of annual alcohol license fee by Mr. Ricky Hall. JBD

ACTION BY LRB:

RECOMMEND: () APPROVAL (☒) DENIAL () FINE _____

DATE _____ ~~10-16-2001~~ OCT 16 2001

CHAIRMAN *[Signature]*

ABSTAIN _____

ACTION BY THE COUNCIL:

() APPROVED () DENIED () SUSPENDED () REVOKED

DATED:

CITY COUNCIL

ORIGINAL

**CITY OF ATLANTA
LICENSE REVIEW BOARD AGENDA**

OCTOBER 16, 2001

**ATLANTA CITY HALL
55 TRINITY STREET
SECOND FLOOR
ATLANTA, GEORGIA 30335**

RICKY HALL

ATLANTA PEACH REPORTERS, LLC
Court Reporting and Videography
3775 Clairmont Road
Atlanta, Georgia 30341

Phone: (770) 452-0303

Fax: (770) 454-0348

A P P E A R A N C E S

CHAIRMAN:

Barney Sims

BOARD MEMBERS:

None present

ATTORNEY FOR THE BOARD:

Lemuel Ward, Assistant City Attorney
Saul Schultz, Associate City Attorney
City Hall Tower
68 Mitchell Street, Suite 4100
Atlanta, Georgia 30335-0332

ATTORNEY FOR THE CITY:

R. Roger Bhandari, Sr. Assistant City Attorney
Jeffrey Norman, Assistant City Attorney
City Hall Tower
68 Mitchell Street, Suite 4100
Atlanta, Georgia 30335-0332

ATTORNEY FOR APPLICANT:

Pro Se

ALSO PRESENT:

Investigator Durant
Ricky Hall, Agent

Transcript Legend

(sic) - Exactly as said.

(phonetic) - Exact spelling unknown.

-- Break in Speech Continuity.

. . . Indicates halting speech, unfinished sentence or omission of word[s] when reading.

Quoted material is typed as spoken.

C O N T E N T SApplicationPage

Item No. 16

Ricky Hall

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P R O C E E D I N G S

INVESTIGATOR DURANT:

Application for No. 16 is application for a refund that we have never done before, so I'm not sure you want to wait on the quorum or not.

MR. CHAIRMAN: Let me see how complicated it is. I'm not in the habit of giving money back. That's unheard of.

MR. HALL: Ricky Hall, 1041 Hunts Drive.

INVESTIGATOR DURANT: Mr. Hall was a previous owner of a license at a club at 3211 Martin Luther King.

MR. CHAIRMAN: Wait just a moment. Do you waive the quorum if we hear this?

MR. HALL: Yes.

INVESTIGATOR DURANT: He had a license last year and he renewed it. He got approved and then in May he wrote a letter requesting to get his refund for his alcohol license due to

1 losing the lease at that location.
2 We advised him according to the
3 ordinance there is only three ways
4 you can get a refund, by destruction
5 fire or act of God, death of the
6 licensee or any action taken by the
7 government, so that he didn't qualify
8 for the refund but he insisted upon
9 coming to see you and appear before
10 the Board.

11 MR. CHAIRMAN: Now, of those
12 three reasons under which one of
13 those should I grant it?

14 MR. HALL: Well, what happened,
15 Mr. Chairman, is that someone broke
16 into the club in October. The
17 insurance company sent me a letter in
18 December and said that they would
19 send the money to me within --

20 MR. CHAIRMAN: They broke into
21 the club? Were you operating?

22 MR. HALL: Yes, sir.

23 MR. CHAIRMAN: Okay.

24 MR. HALL: Then they sent me a
25 letter, a sworn statement saying that

1 they would release those funds which
2 was about \$104,000, but anyway they
3 sent me a letter shortly thereafter
4 saying that they denied the claim.
5 So they said it was thought to be an
6 employee break-in, which they never
7 proved to me, which I'm still trying
8 to figure out what went down.

9 MR. CHAIRMAN: Well, now that
10 isn't the City's fault, is it? I
11 mean, they gave you a license in good
12 faith and you accepted it. In fact,
13 you were late or something and they
14 gave it to you in good faith. Did
15 you ever sell a drink under that
16 license?

17 MR. HALL: No, sir. As a matter
18 of fact, when they didn't send the
19 money and I didn't pay the landlord
20 at this time I found out that he had
21 already leased the place to somebody
22 else.

23 MR. CHAIRMAN: Okay. When did
24 he first get the license? You got it
25 late in March but you were operating;

1 right?

2 MR. HALL: No, sir. The last
3 time I operated the place was in
4 December . . . December 17th.

5 MR. CHAIRMAN: Did you read the
6 newspaper report today?

7 MR. HALL: No, sir.

8 MR. CHAIRMAN: Did you hear that
9 the City was in financial trouble?
10 We aren't sure how we are going to
11 pay our bills.

12 MR. HALL: No, sir, I'm not aware
13 of all that.

14 MR. CHAIRMAN: You should read
15 that. It's very interesting but
16 those three reasons -- give me the
17 reasons again.

18 INVESTIGATOR DURANT: Well, you
19 are not dead, so that don't qualify.

20 MR. CHAIRMAN: Right. What's
21 another one?

22 INVESTIGATOR DURANT: An act of
23 God.

24 MR. CHAIRMAN: He hasn't
25 destroyed it.

1 INVESTIGATOR DURANT: And an
2 action taken by a governing entity.

3 MR. CHAIRMAN: There is no room
4 for me to grant it. I don't know how
5 I could lean other than you had bad
6 luck in business; right?

7 MR. HALL: Well, see if I hadn't
8 received this letter, you know, from
9 them telling me --

10 MR. CHAIRMAN: But that's
11 between you and the insurance
12 company.

13 MR. HALL: Yes, but see I never
14 opened the building in 2001 period.

15 MR. CHAIRMAN: Well, then why
16 would you come here to get a license?
17 If I go down to get a driver's
18 license and when I renew my license
19 if I chose not to drive I still have
20 to pay; right? I'm trying to get an
21 analogy.

22 MR. HALL: Well, see what
23 happened when I found out I was
24 getting the money to open the club
25 back up because they burglarized it

1 and vandalized it so that everything
2 that I had, when the insurance
3 company said that they would release
4 the check immediately, once I did the
5 sworn statement then, you know, I
6 figured I could open it up with no
7 problem, but shortly --

8 MR. CHAIRMAN: That's why you
9 got the license?

10 MR. HALL: That's why I got the
11 license. And shortly thereafter,
12 maybe five or six weeks later, they
13 sent me another letter saying they
14 are denying the claim.

15 MR. CHAIRMAN: Is that our fault
16 for issuing you that license?

17 MR. HALL: No. The only reason
18 I'm here for a refund is because I
19 never occupied the club in 2001,
20 period.

21 MR. CHAIRMAN: Well, I mean
22 that's not an isolated case. That
23 happens often. Many times people
24 come in and, in fact, sometimes we
25 grant a license when the building

1 code has not been met and sometimes
2 they never make that requirement. I
3 don't see a reason, sir, that I can
4 give you a refund.

5 MR. HALL: But there is another
6 license on another property now for
7 this year. In other words, since I
8 never occupied the building --

9 MR. CHAIRMAN: But I want you to
10 understand it's not my fault that you
11 didn't occupy it; right?

12 MR. HALL: You got \$200 to throw
13 away?

14 MR. CHAIRMAN: No, sir. See, I
15 don't have a club.

16 MR. HALL: I understand, but
17 what I'm telling you is when the
18 insurance didn't pay off --

19 MR. CHAIRMAN: But that's not
20 our fault.

21 MR. HALL: But it was in black
22 and white that they would and then
23 they turned around and didn't.

24 MR. CHAIRMAN: If I were you,
25 I'm not an attorney, I would sue them

1 and I would include that fee that I
2 paid, but, sir, it's nothing that I
3 can do to give it back to you because
4 you came in good faith to operate an
5 establishment and we gave you the
6 license in good faith. Now, you
7 closed for whatever reasons. You
8 didn't operate. Now, that's what the
9 Code says because if there are some
10 extenuating circumstances maybe we
11 could refund your family or maybe
12 there was a tornado to destroy the
13 building, but I'm bound by the Code.

14 MR. HALL: So if I go off and
15 die you will refund it to my family;
16 right?

17 MR. CHAIRMAN: Only if they came
18 to ask for it.

19 MR. HALL: Okay.

20 MR. CHAIRMAN: I'm sorry.

21 INVESTIGATOR DURANT: What was
22 your recommendation?

23 MR. CHAIRMAN: Oh, denied.

24 - - -

25 (Whereupon, the hearing was concluded)

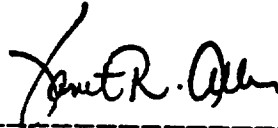
CERTIFICATE

STATE OF GEORGIA)

COUNTY OF DEKALB)

I hereby certify that the foregoing transcript is a true, correct, and complete record of the said proceedings; that I am not a relative, attorney, or counsel of any of the parties; am not a relative of attorney or counsel for any of the parties; nor am I financially interested in the action.

This, the 7th day of December 2001.



Janet R. Allen
Certified Court Reporter
Certificate B-1213

(SEAL)

02- 0-0086

AN ORDINANCE

BY: COUNCILMEMBER CLAIR MULLER.

AN ORDINANCE TO REPLACE DIVISION 7., ENTITLED "ANIMAL-DRAWN VEHICLES", SECTIONS 162-146 THROUGH 162-161, OF CHAPTER 162 OF THE CITY OF ATLANTA'S CODE OF ORDINANCES, WITH NEW LANGUAGE, SO AS TO STRENGTHEN REGULATIONS IN THIS TRADE; AND FOR OTHER PURPOSES.

WHEREAS, regulation of horse drawn carriages for hire in urban areas is necessary to protect the safety and well being of horses, as well as to protect the safety of passengers and the public from traffic hazards created by these vehicles; and

WHEREAS, the nature of the horse precludes him to be a high risk in congested, high intensity urban environments, which are most unnatural to his senses, and impose unnatural demands on his physical well-being; and

WHEREAS, the operation of carriages by owners and drivers who have not demonstrated a basic knowledge of the proper care, handling and maintenance of horses, proper and safe driving techniques and the laws and regulations governing the operation of carriages, increases the risk that horses will be overworked and treated inhumanely, and passengers, pedestrians and motorists will be injured, and property will sustain damage; and

WHEREAS, the high rate of accidents, the difficulty in obtaining adequate liability insurance, the nature of the vehicle which is open, fragile, and contains no seat belts, and is propelled by a creature whose natural instincts are to flee, demands that restrictions and regulations be imposed on the operation of horse drawn carriages for the safety of all concerned.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA that the existing regulations for animal-drawn carriages, which is covered in Division 7., Sections 162-146 through 162-161, of Chapter 162 of the City of Atlanta's Code of Ordinances, be replaced, and the following language be used as a guideline in preparation of the new sections:

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SECTION ONE - DEFINITIONS

For the purposes of this act, the term:

- (1) "SPCA" means Agents of the Fulton County Society of the Prevention of Cruelty to Animals
- (2) "Carriage" means any four-wheeled device in, upon or by which any person may be transported, designed to be drawn by one (1) horse, and designed to hold four (4) passengers only.
- (3) "Horse" means any animal of the genus equus which is of draft type used for the purpose of driving, pulling, or hauling a carriage and weighs at least 1100 pounds. Ponies, Thoroughbreds and Standardbreds are not allowed.
- (4) "Custodian" means a person who has the immediate possession, bailment, custody, use, or control of a horse. For the purposes of this act, the term "custodian" includes a driver.
- (5) "Drive" means the process of operating, transporting, driving, pulling, or hauling a horse-drawn carriage.
- (6) "Driver" means a person licensed to drive, steer, transport, or operate a carriage or horse used in the horse-drawn carriage trade.
- (7) "Driver's license" means a valid document issued by the Mayor to operate a motor vehicle.
- (8) "Horse-drawn carriage trade" means a person or business that operates an enterprise, for hire, or as a contractual service, for the purpose of conveying persons along designated routes within the Atlanta downtown area.
- (9) "Identification card" means a document devised, supplied, and certified by the Director of BUREAU, and signed and dated by a licensed equine veterinarian which shall include:
 - (A) The date of the last physical examination of the horse;
 - (B) A physical description of the horse, including sex, age, height, color, markings, and any other information that may facilitate identification of the horse;
 - (C) The stamina and physical condition of the horse;
 - (D) Any condition that might restrict or affect the use or movement of the horse;
 - (E) A photograph of the horse;
 - (F) An identification number;
 - (G) The name, address, and telephone number of the establishment where the horse is stabled; and
 - (H) The name, address, and telephone number of the owner of the horse.
- (10) "CPNC" means a valid permit or other document issued by the Bureau to a person or business for the purpose of operating a horse-drawn carriage trade enterprise.
- (11) "Licensed veterinarian" means a person licensed to practice veterinary medicine and who specializes in equine or large animal medicine.
- (12) "Operator" means the proprietor or the agent of a proprietor of a horse-drawn carriage trade enterprise or stable.
- (13) "Owner" means a person who is vested with the ownership, control, or title of a horse-drawn carriage trade, horse, or stable.
- (14) "Person" means an individual, firm, partnership, association, or group or combination acting in concert, whether as a principal, employer, employee, agent servant, trustee, fiduciary, receiver, or any other type of legal or personal representative.
- (15) "Police officer" means a sworn member of the Atlanta Police Department.

(16) "Director" means the Director of the Bureau of Taxicabs and Vehicles for Hire.

(17) "Bureau" means the Bureau of Taxicabs and Vehicles for Hire.

(18) "Stable" means a barn, establishment, or similar appropriate facility where a horse is permanently or temporarily boarded, housed, or maintained.

SECTION TWO - HORSE-DRAWN CARRIAGE TRADE REGULATIONS

(a) It shall be unlawful to operate or permit another to operate a horse-drawn carriage within the City of Atlanta without a license and an identification card issued by the Director.

(b) Upon application on a form devised by the BUREAU and the payment of a fee of \$100, a person may be issued a license to operate a horse-drawn carriage in the City of Atlanta.

(c) Upon application on a form devised by the BUREAU and the payment of a fee not to exceed \$30, an owner, operator, or custodian may be issued an identification card for each horse used in the operation of a horse-drawn carriage trade in the City of Atlanta.

(d) No carriage shall be licensed if it is designed to be drawn by more than one horse, nor carry more than four passenger, nor may a carriage be drawn by any other animal other than a horse.

(e) No person shall drive or otherwise operate a carriage engaged in the horse-drawn carriage trade unless he or she:

(1) Is at least 21 years of age;

(2) Has received at least 35 hours of training in the operation of a horse-drawn carriage as provided and certified in writing by the own or operator of a horse-drawn carriage company, 15 hours of which shall include an apprenticeship under the supervision of a licensed horse-drawn carriage driver;

(3) Each applicant must demonstrate that he/she will have at least two (2) licensed horses available for each carriage;

(4) Presents a statement from a licensed physician that certifies that he or she is in good physical condition and is free of defective vision not corrected by eyeglasses or contact lenses, epilepsy, vertigo, or other medical disabilities which may substantially impair his or her ability to operate a horse-drawn carriage or to control a horse; and

(5) Has completed a written examination devised by the BUREAU which shall include, but not be limited to:

(A) Knowledge of the traffic laws and regulations, including passage of the written portion of the driver's license test;

(B) Proper equine grooming, care, equipment, nutrition, and first aid; and

(C) Operation of a horse-drawn carriage.

(6) States whether he/she has ever been convicted of a felony if the applicant is an individual, whether any of the partners have ever been convicted of a felony, if the applicant is a partnership, and whether any of the officers or directors have been convicted of a felony if the applicant is a corporation.

(7) Each applicant must set forth prior experience and qualifications which enables the applicant to properly and humanely operate a carriage business.

(8) Proof of insurance for the duration of the licensing period must be submitted with the application.

(f) No person shall drive or operate a horse-drawn carriage:

(1) Between the hours of 6:00 a.m. and 8:00 p.m., on Monday through Friday, excluding legal holidays

(2) Weekend hours _____ (To be determined by Traffic & Engineering)

(3) At any hour, other than those so designated, without first obtaining a "special occasion" permit from the Bureau. Such a permit should be applied for three weeks in advance of the event (i.e., weddings, parades, etc.). A time limit of four (4) to six (6) hours should be established. The driver(s) of the carriage(s) shall have such permit(s) in his/her/their possession at all times, and must produce it on demand of any law enforcement agent.

(4) On any day or at any time that the Chief of the Atlanta Police Department makes a specific determination that the horse-drawn carriage trade would be inconsistent with other special events or public safety requirements.

(g) The driver of a horse-drawn carriage shall:

(1) Possess and display at all times his or her license to operate a horse-drawn carriage in the front and passenger compartments of the carriage;

(2) Possess a valid identification card issued by the BUREAU;

(3) Possess a completed trip sheet, the form of which shall be provided by the Bureau, for the vehicle the driver is driving and the driver's current shift. The trip sheet shall be submitted to the Bureau within 30 days;

(4) Obey and observe all traffic laws;

(5) Not smoke, eat, drink, or wear headphones while the carriage is in motion;

(6) Not pace the horse faster than a walk;

(7) Leave the horse carriage unattended at any time;

(8) Not drive the carriage at any time when a passenger is standing in the carriage or not seated securely inside of the carriage;

(9) Maintain both hands on the reins and be seated at all times the carriage is in motion; and

(10) Provide humane care and treatment of the horse under his or her direct supervision and control at all times.

SECTION THREE - EXAMINATION OF HORSES

(a) The owner, operator, or custodian of each horse engaged in the horse-drawn carriage trade shall, at their expense, have the horse examined by a licensed equine veterinarian at intervals of not more than six (6) months.

(b) The examination shall include, but not be limited to the following:

(1) The general physical condition of the horse;

(2) An inspection of the eyes, teeth, legs, hooves, shoes, and cardiovascular/respiratory system of the horse;

(3) The stamina and physical ability of the horse to engage in the horse-drawn carriage trade;

(4) An inspection for a recurrence of prior injuries; and

(5) An inspection for disease or other deficiencies;

(6) An indication that a Coggins test (Equine Infectious Anemia) has been given (date), with negative results - to be repeated every year;

(7) An indication that immunization against tetanus, Eastern and Western Encephalitis and Equine Influenza, Types A(1) and A(2) have been given (date) - to be repeated annually;

(8) An indication of presence of internal parasites, treatment (date) - to be repeated every eight (8) weeks.

(c) The examination shall include a certification from the licensed veterinarian that the horse is physically fit to engage in the horse-drawn carriage trade and is free of any

disease or internal parasites. The certification shall be entered on the identification card provided for in the Identification Card section.

(d) In addition to biannual exams referred to in this section, site inspections by any officer with power to enforce this section and/or veterinarian employed with or contracted by the city will determine if a horse is suffering from a physical condition or illness making it unsuitable for work and thereby ordering its removal from work for health and safety reasons or as immediate protection to the horse and/or general public. A horse for which such an order has been issued shall not be returned to work until such time as the horse is reexamined and certified in writing by a veterinarian employed with or contracted by the city to be fit to return to work.

SECTION FOUR - IDENTIFICATION CARD

(a) The owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall have available for immediate inspection by the Director of BUREAU or his or her designee, a police officer, or an animal control officer at all times when a horse is on any street, an identification card as defined in the Definitions section.

(b) In an instance where the owner rents, hires, or places the horse in the care or custody of another person, he or she shall provide that person with the identification card required by subsection (a) of this section.

(c) The Director of BUREAU shall certify the identification card following an examination of the horse by a licensed equine veterinarian.

SECTION FIVE - CARE AND USE OF HORSES

(a) An owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall:

- (1) Not use, work, drive, ride, or require labor from a horse for more than 8 hours in any 24-hour period;
- (2) Provide for adequate rest periods for a horse during the 8 hours of use ensuring a minimum rest period of a ten (10) minute be given between fares;
- (3) Provide the horse with food and drinking water from a clean container of sufficient size and in good condition during regular intervals during the 8 hours of use;
- (4) Not work, drive, ride, or require labor from a horse for more than 50 hours in any seven-day period; or if the horse works more than five (5) consecutive days;
- (5) Drape the body of the horse from forelegs to hind legs with a warm covering in temperatures below 35 degrees. Horses shall be blanketed when standing and wear quarter blankets when working;
- (6) Not pace a horse faster than a walk; and
- (7) Not overdrive or overload a horse as evidenced by physical stress, strain, or exhaustion of the horse; and
- (8) Not beat or prod a horse to maintain a fast gait in any way that will cause pain or injury to the horse. The driver may use a whip approved by the Fulton County SPCA with a light touch only.

(b) An owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall not use a horse to draw a carriage unless:

- (1) The horse is in good health in accordance with standards established by the BUREAU by rule;
- (2) The horse weighs at least 1,100 pounds; and
- (3) All horses must be at least three (3) years of age and not to exceed twenty (20) years old;
- (4) No horse may work if it is more than five (5) months pregnant;

- (5) No stallions may be used;
- (6) The horse must be groomed daily and not have fungus, a dirty coat, or show symptoms of illness or irritation;
- (7) The horse must register between 5 and 8 on the "Henneke Scale" (see reference), have good muscle tone, stand at least 14 1/2 hands, and be of draft type;
- (8) The horse may not have any open sore or wound, nor may any horse be lame or have any other ailment, unless the driver has in his/her possession a written statement by a veterinarian that the horse has been treated and is fit for such work;
- (9a) The hooves of the horse are properly shod and trimmed utilizing rubber compound shoes on the front two hooves and either rubber or open steel borium cork tip shoes on the two rear hooves to prevent slipping while working. For shock absorbency, heel pads are recommended or shoeing that is a combination of silicone packing, leather pad, and borium tipped steel shoe.
- (9b) If a horse throws a shoe during its shift, the horse may not complete the shift. The hoof must be examined by the driver and any nails removed before the horse is immediately returned to its stable. If a shoe is loose or missing and the horse is put back in service prior to the shoe being replaced, the driver is subject to enforcement procedures, including but not limited to warnings and compliance notices and, in applicable situations, cruelty to animal prosecutions.
- (c) A veterinarian employed or contracted by the city shall be available on a regular schedule and at such other times as may be necessary to provide inspections and ascertain compliance with the terms and conditions of this article.

SECTION SIX - CARRIAGE AND EQUIPMENT

- (a) An owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall:
- (1) Provide that the carriage used is in good operating condition, the axles are well-greased, and that all operating mechanisms are in good working order;
- (2) Each carriage shall have wheels with ball bearings and rubber on the rim which are designed for a carriage. Carriage wheels must be properly lubricated and the wheels must spin freely and be properly aligned. Car tires are prohibited;
- (3) Provide that the carriage is equipped with hydraulic brakes in good working condition and set in a locked position when the carriage is not in motion;
- (4) Provide that the saddle, harness, shoes, bridle, and any other equipment for the horse fits properly, is kept free of makeshift material such as wire, sisal rope and hazardous rusty chain, and shall not cause injury or pain to the horse;
- (5) The harness must be oiled and cleaned so as to be soft at all times;
- (6) Not use curb bits, twisted wire, twisted wire snaffles, rusty bits, spurs, bucking straps, flank straps, or similar devices;
- (7) Not work a horse with any article which impairs normal vision, except with properly fitted blinders;
- (8) Inspect daily, all horses and all equipment at the time of departure from and return to the stable; and
- (9) Provide that all carriages are equipped with a manure catching devices. Such devices shall not be attached in a manner which adds weight to the horse but rather are to be attached to the breeching of the harness and to the front of the carriage so that the carriage supports the weight of such device. Weight must be carried by carriage. The catcher shall be of durable, washable material which has a grommited hole for drainage. The catcher must be emptied not less than 20 minutes after soiling, and must be thoroughly cleaned upon return to the stable.

(b) No carriage engaged in the horse-drawn carriage trade shall be driven or operated unless the owner or operator of the carriage has obtained a valid registration and metal CPNC plate issued by the BUREAU pursuant to a procedure and fees established by the BUREAU by rule.

(c) A carriage used in the horse-drawn carriage trade shall:

(1) A schedule of rates shall be conspicuously displayed on two (2) signs which shall be hung or painted on the exterior sides of the carriage. These signs shall bear the amount charged per trip and the maximum number of passengers to be carried. It shall be unlawful to charge any rate not so displayed or to carry more than the specified number of passengers.

(2) Have conspicuously displayed on the rear of the carriage at all times a valid CPNC plate provided for in subsection (b) of this section along with the insurance sticker, on a plate or tag approved by the Bureau;

(A) Each company will have its listed telephone number printed on the vehicle so as to receive comments and complaints regarding the horse-drawn service.

(B) Each company shall identify its carriages by a carriage number assigned by the Bureau. This number shall be in addition to the CPNC number and shall be affixed to each side and the rear of the carriage, in a color which contrasts with the carriage background color. The carriage number shall be at least five (5) inches high.

(3) Be equipped with a slow-moving vehicle emblem to be attached to the rear of the carriage;

(4) Each carriage shall have sufficient reflective material placed along the shafts of the vehicle which parallel the horse's body and also such material which would designate the horse's head;

(6) Be maintained in a safe and sanitary condition;

(7) Not drive or transport more than four passengers at one time, excluding the driver or operator of the carriage;

(8) Not drive or transport any person when a person other than a licensed-driver or an apprenticed-driver is seated in the driver's seat of the carriage; and

SECTION SEVEN - CARRIAGE INSPECTION

(a) A carriage may be inspected at any time as ordered by the Director, but must be inspected and approved for service by the Bureau at least once every six (6) months. The inspection sticker shall be placed on the vehicle in a location approved by the Bureau. If any carriage shall become unsafe for normal operation, obviously deteriorated or so unclean as to render said carriage unfit for public use, or the wheels are not lubricated, aligned and free spinning, the brakes (if applicable) inoperable, or the lights and reflective material absent, the CPNC shall be suspended until the carriage is made safe, suitably attractive and/or sanitary. In determining whether a carriage is unfit for public use, the Director shall give consideration to its effects on the health, comfort convenience and safety of passengers, the horse, the public, and its general appearance on the streets of the City. Upon suspension of a CPNC for any cause, under the provision of this article, the plate shall be removed by the Director from the carriage. Upon termination of such suspension, the Director shall reattach the plate upon payment of a fee not less than \$200, and not greater than \$500. The Director shall immediately notify the Police and the SPCA of every suspension and termination.

(b) certification prepared in accordance with standards established by the Bureau and Fulton County indicating the weight of the carriage should be submitted to the Bureau at least once yearly but in any case each time the carriage is modified in any way.

(c) All carriages must be inspected prior to granting or the renewal of a license.

(d) The BUREAU may, by rule, establish additional inspection requirements for a carriage and other equipment used in the horse-drawn carriage trade.

SECTION EIGHT - CARRIAGE STANDS

(a) The Bureau, in conjunction with The Bureau Of Traffic and Transportation is required to establish carriage stands in such places, and in such a manner as shall be determined to be of the safest and most humane for the horses, and of the greatest convenience, etc., to the public, and in, or in close proximity to the designated routes and areas the carriages are allowed. Every stand shall be designated by a sign stating the hours, fare, passenger load limit, the Bureau's telephone number and other appropriate authorities so that consumer complaints may be registered with proper authorities. These stands shall serve as "cooling stations" and shall provide shelter (for daytime operation on weekends) and potable water necessary for the health and comfort of all working horses. These stands shall also provide refuse containers for the emptying of manure catchers.

(b) The driver of a carriage shall not stop such vehicle upon any street, at any place, for the purpose of loading or unloading passengers other than at a designated carriage stand, other than in the case of an emergency, or by permit issue under

(c) (1) No person shall stop, stand or park a vehicle other than a carriage in a carriage stand when any such stop or stand has been officially designated by appropriate signs.

(2) Any operation of a vehicle in violation of the above provisions shall be subject to a fine of \$_____, and said vehicle may be towed away at the discretion of a Police officer.

(d) Each carriage licensee shall be responsible for the sanitary condition of any carriage stand at the time such stand is utilized by the licensee.

SECTION NINE - OPERATING SPECIFICATIONS

Horse-drawn vehicles shall adhere to the following operating specifications during the hours of operation:

- (1) Vehicles shall not make any left turn movements except from one-way streets.
- (2) Vehicles shall travel in the curb lane except when passing parked vehicles or other obstructions which prevent use of the curb lane.
- (3) Vehicles shall not travel on streets with grades equal to or greater than ten percent without approval of the Bureau of Traffic and Transportation.
- (4) Vehicles shall not stop within the roadway other than at designated loading and unloading areas except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.
- (5) Vehicles shall observe all applicable rules of the road as set forth in the state rules of the road.

SECTION TEN - ROUTE SYSTEMS

A proposed detailed route system of an horse-drawn vehicle for hire shall be submitted to the Bureau of Traffic and Transportation for review, recommendation and approval. The Bureau of Traffic and Transportation shall designate streets and hours of the day that horse-drawn vehicles will be prohibited. A rout system shall be submitted for each vehicle to be placed into operation. This detailed route system shall include the following information:

- (1) The hours of operation for the vehicle.
- (2) The days of the week the vehicle will be in operation.
- (3) The duration of the operation, i.e., summer only or year-round.
- (4) All locations for loading and unloading passengers.

SECTION ELEVEN - WEATHER CONDITIONS

(a) An owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall not drive, use, or work a horse:

(1a) During periods when the temperature exceeds 89 degrees Fahrenheit or when the combined sum of temperature and humidity exceeds 150 degrees (measured at horse's elbow, not as given by the National Weather Service);

(1b) In temperatures below 35 degrees, horses shall be blanketed when standing and wear quarter blankets when working.

(2) During periods when the temperature or wind chill factor is below 25 degrees Fahrenheit, as determined and announced by the National Weather Service;

(3) During periods of ice, snow, heavy rain, or other slippery conditions;

(4) During other periods determined by the BUREAU by rule as being dangerous or unsuitable.

(b) A horse in use at the time described in the above subsections, shall be immediately returned by its owner, operator, or custodian by the most direct route to a stable.

SECTION TWELVE - FEEDING

(a) The horse shall receive adequate and substantial feed daily, consisting of both hay and grain which is free of contamination. The feed shall be of sufficient quantity, nutritive value and frequency to meet normal daily requirements for the condition and size of the horse so as to maintain a healthy flesh measuring a minimum of a number five (5) on the Henneke Scale (see reference);

(b) Clean, fresh drinking water must be in all stalls and must be available to horses at all times;

(c) Each stall shall contain a trace mineralized salt block at all times. A simple salt block does not suffice;

(d) A chart for each horse shall be posted at each stall, indicating specified type and amount of feed, and shall be kept updated on a daily basis.

SECTION THIRTEEN - STABLES, STALLS AND STAFF

(a) All structures used for housing horses shall be in compliance with the following:

(1) Horses shall be housed on ground floor only;

(2) Ventilation must provide air exchange year round, but shall not create a draft at any time. Fresh air must be delivered to each stall. The top portion of stalls should be of grill work to provide free air flow. Ideally, ducts should deliver air to each stall. In cold months, incoming air should be mixed with warm air before coming in contact with the horses. Window fans are generally insufficient in providing draft-free ventilation. Ceiling fans (in high ceiling structures) generally provide better circulation;

(3) Ammonia levels (NH₃) must not exceed 35 parts per million at any time (requires an ammonia gauge);

(4) Lighting of aisles and "relaxation" areas should be at a 10 foot-candle level. Lighting at work areas (for visual tasks) should be at a 30-70 foot-candle levels;

- (5) Roof and ceiling should be kept free of leaks;
- (6) Foot hazards and sharp surfaces shall not be permitted in any area where they may come in contact with horses;
- (7) All interior and exterior areas of the structure shall be kept clean, properly drained, sanitary and free of debris and nuisances including, but not limited to, odors and accumulation of refuse and excrement;
- (8) A pest control program shall be utilized to control flies and other insects, and rodents. All interior and exterior areas shall be free of conditions which might harbor, or be conducive to the breeding of insects, rodents or disease;
- (9) All feed, hay and bedding shall be stored off floor to avoid dampness and mold contamination, and shall be kept free of rodents;
- (10) Grain shall be kept in air-tight, rodent-proof containers which cannot be opened by "loose" horses;
- (11) All stables shall provide a paddock area adequate to sufficiently exercise a horse for a minimum of one (1) hours daily, weather permitting. The paddock area shall be free of debris, and have adequate drainage and soil surface so that it can be maintained in a safe and sanitary manner, and can be utilized at all times by horses when not working. Clean, potable water must be available at all times. The enclosure of the paddock must be equine safe;
- (12) A qualified, sober, alert equine handler must be on premises at all times when horses are present;
- (13) There shall be no smoking at any time;
- (14) All stables shall be subject to inspection at any time (unannounced by the Department, State, building, fire or health officials, plus Police and other city-designated officials);
- (15) All stables shall be inspected on a monthly basis by the State and other designated city officials as required;
- (16) The exterior (street side) of all stables shall be identified in lettering not less than three (3) inches high, be of permanent nature and kept legible at all times, bearing the following:
 - (A) Name of stable;
 - (B) Address of stable, and
 - (C) Telephone number of stable, and home number owner, operator or custodian for emergency contact;
- (17) All stables must utilize a time clock which shall be used by drivers to record time in and out of stables when driving carriages. Both the horse I.D. number and the carriage number (CPNC plate) must be recorded;
- (18) Stalls must be a minimum of 12 square feet (for draft horses) in dimension. Horses must be able to safely and comfortably lie down and turn around.
- (19) Stall floors must have adequate drainage, and be kept smooth at all times. Floors of wood or concrete shall be covered with rubber mats, which shall then be covered with not less than six (6) inches of bedding. Other flooring (packed soil, packed stone or packed clay shall be covered with not less than four (4) inches of bedding;
- (20) Stall bedding shall be of straw, wood shavings or saw dust;
- (21) Stall bedding shall be kept free of excrement, and reasonably dry. Bedding shall be completely changed every six (6) days;
- (22) Only one horse shall be housed in a stall. No ties shall be used;
- (23) Stall walls shall be smooth and free of any protrusions or sharp edges which might cause cuts or abrasions, and shall be kept clean and sanitary at all times;
- (24) Feeding devices must be placed at a height which is both safe and convenient for the horses (about three (3) feet off the floor). The space beneath should be

boxed off to prevent injury to the horse. These devices shall be cleaned regularly to insure sanitation;

(25) Water buckets or automatic watering devices shall be in each stall, and cleaned regularly to insure safe and sanitary drinking water at all times;

(26) Stall ceilings shall be a minimum of ten (10) feet in height; and

(27) A chart bearing feeding schedule, exercise schedule and medical information shall be posted at each stall, and updated on a daily basis.

(28) All horses shall be given a pasture turn-out time of a minimum of two weeks every four months, or based on veterinary recommendations

SECTION FOURTEEN - SICK OR INJURED HORSES

(a) The owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade that is in pain, sick, diseased, lame, or injured shall take action to obtain immediate veterinary treatment, care, and attention for the horse.

(b) No person shall drive, use, or work an injured, sick, diseased, or lame horse in the horse-drawn carriage trade.

(c) An injured, sick, diseased, or lame horse shall not be sold or otherwise disposed of except in a humane manner, (i.e. euthanasia). Sale for slaughter does not constitute a humane sale or disposition. Licensee must notify the director prior to sale or disposition except in the case of emergency euthanasia. The veterinarian must certify to the Director the circumstances which required emergency euthanasia.

(d) If a horse dies, the BUREAU must be notified within twelve (12) hours. The remains shall not be removed from the city nor disposed of for a minimum of 24 hours from notice unless approval is given by the BUREAU. The BUREAU may order the delivery of the remains to the veterinarian for an necropsy.

SECTION FIFTEEN - TRAILERS

Any trailer or vehicle involved in transporting animals governed in this article must be in good working order and must be near the working location to provide speedy removal of any animal in an emergency situation.

SECTION SIXTEEN - MAINTENANCE OF RECORDS

(a) The owner or operator of a horse-drawn carriage trade shall maintain or require his or her driver to maintain a daily record of travel for each carriage used, which shall include:

- (1) The name of the driver;
- (2) The driver's license number;
- (3) The horse-drawn carriage trade CPNC number;
- (4) The identification card number of the horse that hauls or pulls the

carriage;

- (5) The date;
- (6) The hours of operation;
- (7) The specific location, time, and number of passengers for each ride in the

carriage;

- (8) The rest, water, and feeding times for the horse; and
- (9) A description of any and all traffic accidents.

(b) The owner or operator of a horse-drawn carriage trade shall maintain a complete log of all records at his or her place of business.

SECTION SEVENTEEN - PENALTIES

(a) A person who violates any provision of this act shall be fined up to \$300 for the first offense and up to \$500 for each subsequent offense.

(b) Any owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade who causes serious intentional injury to the horse by neglect or inhumane treatment shall be fined up to \$2,500.

THE HENNEKE SYSTEM

A Reliable Method for Judging a Horse's Condition

by Christine Keeney Miller
Animal Control Officer
Storey County, Nevada

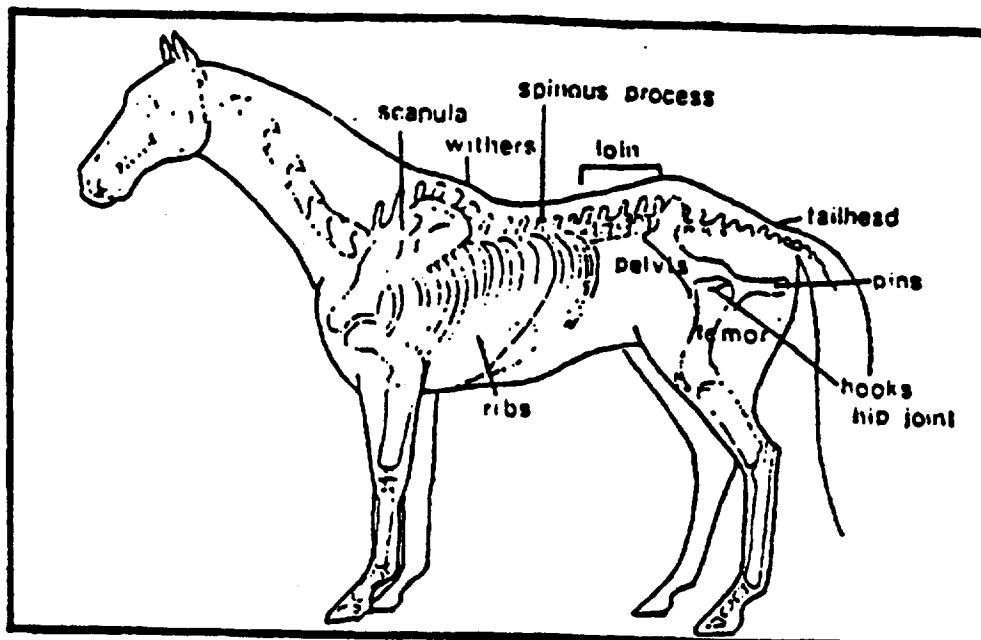
The horse is a unique animal unlike the other species of livestock.

Horses are expected to be athletes and to be productive in different ways than the "edible" species of livestock. Because of this, the agriculture community has not been concerned with developing an objective standard for judging the body condition of a horse other than an individual's background, preferences and prejudices. This sometimes makes for interesting conversations but frustrating court cases involving cruelty to horses.

There are accepted standards for judging cattle, sheep and swine that are fairly constant regardless of an individual's background. Recently a consistent system of objective evaluation of a horse's body condition was developed based on visual and palpable fat cover. It is called the Henneke System after its developer, Don R. Henneke, Ph.D., of Tarleton State University in Texas.

The six points on horses that are the most responsive to changes in body fat were located as reference points. These points are: the lumbar spinous process (bony projections of the spine over the loin), ribs, tailhead, area behind the shoulders, crest of the neck and the withers. Palpation of these areas and visual evaluation are combined to give a numerical score. A horse that scores a 1 has no apparent fat cover and is emaciated while a 5 is the average pleasure horse and a 9 is an obese animal.

Although the Henneke System was developed to try to settle the age old question of whether fat mares or skinny



Underlying boney structures of the six reference points and some other areas needed for visual evaluation.

mares breed easier, it has found its way into humane and animal control investigations. It is a fast, efficient system of evaluation requiring no special equipment. It is easy to learn and best of all the results are reproducible between different people.

For the humane investigator and the Animal Control Officer, this system has several uses. It can be used as a way of educating horse owners and as a standard for the court system.

In a recent investigation, the owner of a mare with heaves was ignoring everything I was saying about the weakness in his management of the horse's condition until I informed him that I had scored the mare and let him read what the results were. The mare scored a 2, which meant she was extremely thin, near emaciation.

He was shocked and for the first time realized that there was reason for concern and then was open to my suggestions for changes in the mare's management. The follow-up investigations have

shown a slow but steady increase in the mare's weight and overall condition. I feel that by being able to prove to him that a non-judgmental, objective system agreed with my concern we reached a turning point in our working relationship.

The second value of this system is that it can be used as a tool for the judge and/or jury to help decide a case. For example: I was involved in a case before I learned the Henneke System. It involved a mare that was extremely malnourished and crippled. The prosecution's veterinarian claimed the mare was emaciated and near terminal starvation. The defense's veterinarian in turn claimed the mare was just "a little skinny."

The jury was forced to decide between conflicting opinions of equal qualified professionals, other facts in the case, and their backgrounds as opinions before returning a verdict.

How much easier would their job have been if they had available to them a standard to help evaluate the facts as professional opinions offered to them. I was canvassing the jury after the verdict was

(On Our Cover)

Six reference points on a horse's body that are used in the Henneke Scoring System. These areas are palpated to determine amounts of fat deposited there.